

As qualification is a core criterion of selection, candidates without the prescribed qualifications are not eligible for the post.

The Appellant challenged the decision of the Respondent to appoint the Co-Respondents as mentioned above in the three appeals to the post of HSTM in the Ministry of The Tribunal had been informed by the Respondent that the appointments were made from the same selection exercise. The Tribunal points out that the selection exercise was carried out in ... and the selected candidates were appointed in several batches.

Appellant lodged an appeal on ... against the Respondent challenging the appointment of the first batch and subsequently lodged another appeal on ... challenging the appointment of a second batch of selected candidates which was made on.... One of his grounds of appeal was that he was “*not convened for the selection exercise*”. Consequently, the Respondent submitted its Statement of Defence (SOD) wherein a preliminary objection in law was raised which read as follows:

“Respondent moves that the appeal be set aside on the ground that Appellant has no locus standi to lodge the present appeal as he was not eligible for the post of HSTM for failing to meet the qualification requirements for the post as per the scheme of service.”

The Tribunal heard arguments on the preliminary point in law and gave its ruling on the ... on the two previous appeals Ref PSC and PSC It was the contention of the Appellant that he held better qualification than required but he admitted that he did not submit any equivalence certificate from the relevant authorities. The Tribunal ruled that the vacancy circular clearly mentioned that the onus is on the Appellant to produce such equivalence certificate and therefore it set aside the appeal.

In the three present appeals which were lodged on the..., ... and ... respectively, the Appellant felt aggrieved against the appointment of the selected candidates in the

3rd, 4th and 5th batches from the same selection exercise. The Grounds of Appeal (GOA) were as follows:

- (a) Merit; (b) Better qualifications; (c) More experience; (d) Fairness;
- (e) Impartiality; (f) Competence; (g) Professional commitment; (h) Integrity;
- (i) Injustice; (j) Discrimination; (k) Transparency; (l) Good governance;
- (m) Favouritism; (n) Public trust; (o) Bias; and (p) Gender equality.

However, the Appellant omitted to insert as his main ground of appeal that he had *“not be convened for the selection exercise”*. But it was obvious that this was the reason as to why he was not selected.

The Respondent raised a preliminary point in law in all the three cases which read as follows:

1. *“Respondent moves that the present appeal be set aside inasmuch as it is in relation to the same selection exercise as the one which was subject to a ruling delivered by this Tribunal on ... (No R/ of ...) and the present appeal is therefore an abuse of process of the Tribunal.”*
2. *“Respondent further contends that there cannot validly be a second determination of the Tribunal on the very same exercise and run the risk of contradictory decisions of the Tribunal.”*

After having carefully analysed the GOA and the preliminary objections in law of the Respondent, the Tribunal decided to rule on the appeals without any hearing by virtue of Section 6(4)(a) of the Public Bodies Appeal Tribunal Act of 2008 (PBAT Act). As the three appeals were based on the same selection exercise, the appeals are consolidated and this ruling will be filed in each appeal case file.

The Tribunal reminds all parties that all appointments within the Public Service should be in compliance with Regulation 14(1)(c) of the Public Service Commission Regulations which reads as follows:

“(c) In the case of officers serving in the Public Service, take into account qualifications, experience, merit and suitability for the office in question before seniority”.

It is very clear that qualification is a core criterion in a selection exercise. The Tribunal cannot interfere, in all fairness, when an Appellant is not eligible to apply for the post due to lack of qualification as prescribed in the respective Scheme of Service or any equivalent qualification duly certified by the appropriate authorities.

The two previous appeals were rejected on the ground of lack of required qualification as per the scheme of service for the post of HSTM at the time of application, even though the Appellant may believe that his qualification was higher than required. It is clear that the present appeals should also be set aside on the same reasoning as laid down in Ruling R/ of 2021 and the Appellant could not expect that the Tribunal would overrule its own decision.

It is obvious that the appeals are trivial, frivolous and vexatious and are therefore dismissed by the Tribunal under Section 6(4)(a) of the Public Bodies Appeal Tribunal Act 2008.

The appeals are therefore set aside.